

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0295P

Use Tax

Calendar Years 1993, 1994, and 1995

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer is an out-of-state Corporation registered with the Indiana Department of Revenue.

Taxpayer protested the assessment of use tax for assets shipped directly from North Carolina to locations outside the state of Indiana for use exclusively outside the state of Indiana. The auditor supplemented the original audit dated February 6, 1998 to coincide with taxpayer's protest on June 8, 1999. The Legal Division advised the taxpayer in a letter dated June 30, 1999 that the auditor had supplemented the audit to coincide with its protest with the exception of the penalty. The letter asked for additional information why the penalty should be waived and a determination would be made in a Letter of Findings unless an oral hearing was preferred. In a letter dated July 12, 1999, the taxpayer requested relief due to an internal accounting error that is the sole reason for any discrepancy found in reporting.

Taxpayer failed to remit use tax on clearly taxable items and had no sales or use tax accrual system in place for calendar year 1994.

1. **Tax Administration** – Penalty

DISCUSSION

Taxpayer's audit report revealed that no use tax accrual system was in place in 1994 although the taxpayer was registered with the Department and paid sales and use taxes in 1993 and 1995.

Taxpayer states it there was an internal accounting error that is the sole reason for any discrepancy found in reporting.

Taxpayer made no attempt to pay sales tax or to self assess use tax on taxable purchases in 1994 although it is registered with the State and made payments in 1993 and 1995. Because the deficiency is negligible for 1993, the department waives the penalty and denies the penalty waiver for 1994.

FINDING

Taxpayer's protest is denied for 1994 and sustained for 1993.